



366655



"Winters, Karen"
<KWinters@ssd.com>
06/15/2006 03:03 PM

To Elise.Feldman@usdoj.gov
cc John Emerson/R6/USEPA/US@EPA, Catherine
Garypie/R5/USEPA/US@EPA, Jane
Kloeckner/CNSL/R7/USEPA/US@EPA
bcc

Subject RE: Custodial Trust Agreement

Thanks Elise. We'll revise this section accordingly.

-----Original Message-----

From: Elise.Feldman@usdoj.gov [mailto:Elise.Feldman@usdoj.gov]
Sent: Thursday, June 15, 2006 3:52 PM
To: Winters, Karen
Cc: emerson.john@epa.gov; Garypie.Catherine@epamail.epa.gov;
Kloeckner.Jane@epamail.epa.gov
Subject: RE: Custodial Trust Agreement

Just to finish up on the notice parties --

The whole thing for the US should really read as follows:

If as to USEPA pertaining to sites in Michigan, Illinois and Ohio:

Richard C. Karl

Superfund Division
Director

EPA Region 5 -
Superfund Division

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with copies to:
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I. Cintron-Silva

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If as to USEPA pertaining to sites in Kansas:

Drake

David

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U.S.

Superfund Division

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Kansas City, KS 66101

With copies to:

Jane

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	Maria
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If as to USEPA pertaining to sites in Oklahoma:	
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Emerson	
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-----Original Message-----

From: KWinters@ssd.com [mailto:KWinters@ssd.com]
Sent: Thursday, June 15, 2006 1:29 PM
To: Feldman, Elise (ENRD); Tenenbaum, Alan (ENRD);
Betsey.Streuli@deq.state.ok.us; ebessey@kdhe.state.ks.us;
JMorgan@atg.state.il.us; vpowers@szd.com; ssamuels@szd.com;
CGIBBONS@szd.com; wvawest@ameritech.net; PierceJC@michigan.gov;
monroe@michigan.gov; TKreller@milbank.com; LPutman@milbank.com
Cc: SLerner@ssd.com; PBrooks@ssd.com
Subject: Custodial Trust Agreement

Attached is a redraft of the Custodial Trust Agreement, revised to address the comments received over the course of the last two days. I've also attached a redline of the redraft against Patrick's draft of June 13. Thanks to all for forwarding your comments in writing. We continue to work on the legal descriptions to be included in Exhibit A, but expect to have that for your review shortly. I've included Exhibit B in the redraft.

With respect to the United States' comments, I have addressed those as follows:

The qualifier "QA/QC in Section 3.2(a) has been deleted.

We have declined to include the suggested revision to Section to increase the holdback from 15% to 20%, believing that the funds in the Custodial Trust Accounts and the structure of the Custodial Trust

Agreement generally are sufficient to address any concerns in this regard.

With respect to the State of Michigan's comments, I have addressed those as follows:

The definition of the term "Environmental Action" remains the same as set forth in version of the Custodial Trust Agreement forwarded by Patrick on June 13.

Your suggested revision to Section 2.1(e) regarding the need for Lead Agency approval of the obtaining of insurance by the Custodial Trustee for the completion of Environmental Actions at one or more Properties is included in the redraft. accepted.

We have declined to include your suggested revision to Section 2.6(a) relative to requiring that an agreement with a buyer to complete Environmental Actions in connection with a sale, transfer or other disposition be with the Lead Agency on the basis that the provisions of the Section generally requiring either withdrawal or court approval over objection should be sufficient.

Your suggested revision to Section 5.3(a) relative to the requirement that the dispute resolution be thirty (30) days has been included.

We have decline to include your suggested revisions to Section 5.3(a) suggesting that disputes with respect to the Custodial Trustee's performance would be settled in state court, believing this to be something that is within the bankruptcy court's jurisdiction.

We have declined to include your suggested revisions to Section 5.3(a) relative to appropriate review procedures, believing this to have been addressed with the revisions suggested by the Custodial Trustee yesterday and reflected in the revisions to that section.

If there are any further comments on this document, please let me know by 4pm EDT today so that we can finalize this document and turn our attention to the Settlement Agreements. If you have questions or wish to discuss this further, please give me a call. If you believe that a conference call would be helpful in finalizing this document, please let me know and I will set one up. Again, thanks for your comments.

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